

**COMMERCIAL DRIVER LICENSE AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill modifies the Uniform Driver License Act by amending provisions relating to commercial driver licenses.

**Highlighted Provisions:**

This bill:

- ▶ provides that the Driver License Division may deny a person's class A, B, C, or D commercial driver license if the person fails to comply with the requirement to have a K restriction removed from the person's license;
- ▶ amends the definition of serious traffic violation for purposes of suspending a commercial driver license to include using a handheld wireless communication device while operating a commercial motor vehicle;
- ▶ amends the endorsements and restrictions that apply to a commercial driver license;
- ▶ specifies the classifications, endorsements, and restrictions that apply to a commercial driver instruction permit;
- ▶ requires the Driver License Division to license commercial driver license third party testers or commercial driver license third party examiners to be eligible to administer the commercial driver license skills tests;
- ▶ requires an applicant for a commercial driver license third party tester or third party examiner license to submit fingerprints at the time the license application is filed and consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;
- ▶ requires the Driver License Division to:
  - impose the fees that the Bureau of Criminal Identification is authorized to collect for certain services; and
  - remit the fees collected to the Bureau of Criminal Identification;
- ▶ requires the Driver License Division to make rules establishing:
  - minimum standards and application procedures for a commercial driver license

third party tester or third party examiner license;

- minimum standards for the commercial driver license skills test; and
- procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license;
- ▶ amends the commercial driver license medical certification status requirements; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-3-104**, as last amended by Laws of Utah 2011, Chapter 152

**53-3-221**, as last amended by Laws of Utah 2011, Chapters 190 and 351

**53-3-402**, as last amended by Laws of Utah 2011, Chapter 190

**53-3-407**, as last amended by Laws of Utah 2012, Chapters 176 and 351

**53-3-410.1**, as enacted by Laws of Utah 2011, Chapter 190

**53-3-412**, as last amended by Laws of Utah 2011, Chapter 190

**53-3-414**, as last amended by Laws of Utah 2011, Chapter 190

ENACTS:

**53-3-407.1**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **53-3-104** is amended to read:

**53-3-104. Division duties.**

The division shall:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable discharge from the United States military, and other proof or documentation required under this chapter;

(c) regarding the restrictions to be imposed on a person driving a motor vehicle with a temporary learner permit or learner permit;

(d) for exemptions from licensing requirements as authorized in this chapter; and

(e) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by it and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by it under state law;

(7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any person licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section 53A-13-208, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303; ~~and~~

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of a person who is an applicant for voter registration under Section 20A-2-206[-]; and

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license.

Section 2. Section **53-3-221** is amended to read:

**53-3-221. Offenses which may result in denial, suspension, disqualification, or revocation of license without hearing -- Additional grounds for suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.**

(1) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately deny, suspend, disqualify, or revoke the license of any person without hearing and without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:

(a) has committed any offenses for which mandatory suspension or revocation of a

license is required upon conviction under Section 53-3-220;

(b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person, or serious property damage;

(c) is incompetent to drive a motor vehicle or is afflicted with mental or physical infirmities or disabilities rendering it unsafe for the person to drive a motor vehicle upon the highways;

(d) has committed a serious violation of the motor vehicle laws of this state;

(e) has knowingly ~~[acquired, used, displayed, or transferred an item that purports to be an authentic driver license certificate issued by a governmental entity if the item is not an authentic driver license certificate or has permitted an unlawful use of the license as prohibited under]~~ committed a violation of Section 53-3-229; or

(f) has been convicted of serious offenses against traffic laws governing the movement of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

(2) (a) The division may suspend the license of a person under Subsection (1) when the person has failed to comply with the terms stated on a traffic citation issued in this state, except this Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.

(b) This Subsection (2) applies to parking and standing violations only if a court has issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms of the citation.

(c) (i) This Subsection (2) may not be exercised unless notice of the pending suspension of the driving privilege has been sent at least 10 days previously to the person at the address provided to the division.

(ii) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the terms stated on a traffic citation.

(3) (a) The division may suspend the license of a person under Subsection (1) when the division has been notified by a court that the person has an outstanding unpaid fine, an outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a court.

(b) The suspension remains in effect until the division is notified by the court that the order has been satisfied.

(c) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(4) (a) The division shall make rules establishing a point system as provided for in this Subsection (4).

(b) (i) The division shall assign a number of points to each type of moving traffic violation as a measure of its seriousness.

(ii) The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.

(iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points against a person's driving record for a conviction of a traffic violation:

(A) that occurred in another state; and

(B) that was committed on or after July 1, 2011.

(iv) The provisions of Subsection (4)(b)(iii) do not apply to:

(A) a reckless or impaired driving violation or a speeding violation for exceeding the posted speed limit by 21 or more miles per hour; or

(B) an offense committed in another state which, if committed within Utah, would result in the mandatory suspension or revocation of a license upon conviction under Section 53-3-220.

(c) Every person convicted of a traffic violation shall have assessed against the person's driving record the number of points that the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.

(d) (i) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense.

(ii) The severity of a speeding violation shall be graded as:

(A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;

(B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per

188 hour; and

189 (C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

190 (iii) Consideration shall be made for assessment of no points on minimum speeding  
191 violations, except for speeding violations in school zones.

192 (e) (i) Points assessed against a person's driving record shall be deleted for violations  
193 occurring before a time limit set by the division.

194 (ii) The time limit may not exceed three years.

195 (iii) The division may also delete points to reward violation-free driving for periods of  
196 time set by the division.

197 (f) (i) By publication in two newspapers having general circulation throughout the  
198 state, the division shall give notice of the number of points it has assigned to each type of  
199 traffic violation, the time limit set by the division for the deletion of points, and the point level  
200 at which the division will generally take action to deny or suspend under this section.

201 (ii) The division may not change any of the information provided above regarding  
202 points without first giving new notice in the same manner.

203 (5) (a) (i) Upon denying or suspending the license of a person under this section, the  
204 division shall immediately notify the licensee in a manner specified by the division and afford  
205 him an opportunity for a hearing in the county where the licensee resides.

206 (ii) The hearing shall be documented, and the division or its authorized agent may  
207 administer oaths, may issue subpoenas for the attendance of witnesses and the production of  
208 relevant books and papers, and may require a reexamination of the licensee.

209 (iii) One or more members of the division may conduct the hearing, and any decision  
210 made after a hearing before any number of the members of the division is as valid as if made  
211 after a hearing before the full membership of the division.

212 (iv) After the hearing the division shall either rescind its order of denial or suspension,  
213 extend the denial or suspension of the license, or revoke the license.

214 (b) The denial or suspension of the license remains in effect pending qualifications  
215 determined by the division regarding a person:

216 (i) whose license has been denied or suspended following reexamination;

217 (ii) who is incompetent to drive a motor vehicle;

218 (iii) who is afflicted with mental or physical infirmities that might make him dangerous

219 on the highways; or

220 (iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

221 (6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when

222 the division receives notice from the Office of Recovery Services that the Office of Recovery

223 Services has ordered the suspension of the person's license.

224 (b) A suspension under Subsection (6)(a) shall remain in effect until the division

225 receives notice from the Office of Recovery Services that the Office of Recovery Services has

226 rescinded the order of suspension.

227 (c) After an order of suspension is rescinded under Subsection (6)(b), a report

228 authorized by Section 53-3-104 may not contain any evidence of the suspension.

229 (d) (i) If the division suspends a person's license under this Subsection (6), the division

230 shall, upon application, issue a temporary limited driver license to the person if that person

231 needs a driver license for employment, education, or child visitation.

232 (ii) The temporary limited driver license described in this section:

233 (A) shall provide that the person may operate a motor vehicle only for the purpose of

234 driving to or from the person's place of employment, education, or child visitation;

235 (B) shall prohibit the person from driving a motor vehicle for any purpose other than a

236 purpose described in Subsection (6)(d)(ii)(A); and

237 (C) shall expire 90 days after the day on which the temporary limited driver license is

238 issued.

239 (iii) (A) During the period beginning on the day on which a temporary limited driver

240 license is issued under this Subsection (6), and ending on the day that the temporary limited

241 driver license expires, the suspension described in this Subsection (6) only applies if the person

242 who is suspended operates a motor vehicle for a purpose other than employment, education, or

243 child visitation.

244 (B) Upon expiration of a temporary limited driver license described in this Subsection

245 (6)(d):

246 (I) a suspension described in Subsection (6)(a) shall be in full effect until the division

247 receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and

248 (II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any

249 reason.



(iv) The division is not required to issue a limited driver license to a person under this Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver license.

(v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this part.

(7) (a) The division may suspend or revoke the license of any resident of this state upon receiving notice of the conviction of that person in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a license.

(b) The division may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle administrator in the state where the person convicted is a resident.

(8) (a) The division may suspend or revoke the license of any nonresident to drive a motor vehicle in this state for any cause for which the license of a resident driver may be suspended or revoked.

(b) Any nonresident who drives a motor vehicle upon a highway when the person's license has been suspended or revoked by the division is guilty of a class C misdemeanor.

(9) (a) The division may not deny or suspend the license of any person for a period of more than one year except:

(i) for failure to comply with the terms of a traffic citation under Subsection (2);

(ii) upon receipt of a second or subsequent order suspending juvenile driving privileges under Section 53-3-219;

(iii) when extending a denial or suspension upon receiving certain records or reports under Subsection 53-3-220(2);

(iv) for failure to give and maintain owner's or operator's security under Section 41-12a-411;

(v) when the division suspends the license under Subsection (6); or

(vi) when the division denies the license under Subsection (14).

(b) The division may suspend the license of a person under Subsection (2) until the person shows satisfactory evidence of compliance with the terms of the traffic citation.

(10) (a) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of any person without hearing and without receiving a record of the person's conviction for a crime when the division has reason to believe that the person's license was granted by the division through error or fraud or that the necessary consent for the license has been withdrawn or is terminated.

(b) The procedure upon suspension is the same as under Subsection (5), except that after the hearing the division shall either rescind its order of suspension or cancel the license.

(11) (a) The division, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified by the division of at least five days to the licensee require him to submit to an examination.

(b) Upon the conclusion of the examination the division may suspend or revoke the person's license, permit him to retain the license, or grant a license subject to a restriction imposed in accordance with Section 53-3-208.

(c) Refusal or neglect of the licensee to submit to an examination is grounds for suspension or revocation of the licensee's license.

(12) (a) Except as provided in Subsection (12)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed limit and did not result in an accident, unless authorized in a manner specified by the division by the individual whose report is being requested.

(b) The provisions of Subsection (12)(a) do not apply for:

(i) a CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(13) (a) By following the emergency procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may immediately suspend the license of a person if it has reason to believe that the person is the owner of a motor vehicle for which security is required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within this state without the security being in effect.

(b) The division may immediately suspend a driving privilege card holder's driving

privilege card if the division receives notification from the Motor Vehicle Division that:

(i) the driving privilege card holder is the registered owner of a vehicle; and

(ii) the driving privilege card holder's vehicle registration has been revoked under Subsection 41-1a-110(2)(a)(ii)(A).

(c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's security applies to persons whose driving privileges are suspended under this Subsection (13).

(d) If the division exercises the right of immediate suspension granted under this Subsection (13), the notice and hearing provisions of Subsection (5) apply.

(e) A person whose license suspension has been sustained or whose license has been revoked by the division under this Subsection (13) may file a request for agency action requesting a hearing.

(14) The division may deny an individual's license if the person fails to comply with the requirement to downgrade the person's CDL to a class D license under Section 53-3-410.1.

(15) The division may deny a person's class A, B, C, or D license if the person fails to comply with the requirement to have a K restriction removed from the person's license.

~~[(15)]~~ (16) Any suspension or revocation of a person's license under this section also disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License Act.

Section 3. Section **53-3-402** is amended to read:

**53-3-402. Definitions.**

As used in this part:

(1) "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means the number of grams of alcohol per:

(a) 100 milliliters of blood;

(b) 210 liters of breath; or

(c) 67 milliliters of urine.

(3) "Commercial driver instruction permit" or "CDIP" means a permit issued under Section 53-3-408.

(4) "Commercial driver license information system" or "CDLIS" means the information system established under Title XII, Pub. L. 99-570, the Commercial Motor Vehicle

Safety Act of 1986, as a clearinghouse for information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6), and includes all substances listed on the current Schedules I through V of 21 C.F.R., Part 1308 as they may be revised from time to time.

(6) "Employee" means any driver of a commercial motor vehicle, including:

- (a) full-time, regularly employed drivers;
- (b) casual, intermittent, or occasional drivers;
- (c) leased drivers; and
- (d) independent, owner-operator contractors while in the course of driving a

commercial motor vehicle who are either directly employed by or under lease to an employer.

(7) "Employer" means any individual or person including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an individual to drive a commercial motor vehicle.

(8) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.

(9) "Foreign jurisdiction" means any jurisdiction other than the United States or a state of the United States.

(10) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed units and the loads on those units.

(11) "Hazardous material" has the same meaning as defined under ~~[49 U.S.C. Sec. 5101 et seq., Hazardous Materials Transportation Act]~~ 49 C.F.R. Sec. 383.5.

(12) "Imminent hazard" means the existence of a condition, practice, or violation that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment is expected to occur immediately, or before the condition, practice, or violation can be abated.

(13) "Medical certification status" means the medical certification of a commercial driver license holder or commercial motor vehicle operator in any of the following categories:

(a) Non-excepted interstate. A person shall certify that the person:

(i) operates or expects to operate in interstate commerce;

(ii) is both subject to and meets the qualification requirements under 49 C.F.R. Part 391; and

(iii) is required to obtain a medical examiner's certificate under 49 C.F.R. [Part] Sec. 391.45.

(b) Excepted interstate. A person shall certify that the person:

(i) operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Sec. 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. Part 391; and

(ii) is not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(c) Non-excepted intrastate. A person shall certify that the person:

(i) operates only in intrastate commerce; and

(ii) is subject to state driver qualification requirements under Sections 53-3-303.5, 53-3-304, and 53-3-414.

(d) Excepted intrastate. A person shall certify that the person:

(i) operates in intrastate commerce; and

(ii) engages exclusively in transportation or operations excepted from all parts of the state driver qualification requirements.

(14) "NDR" means the National Driver Register.

(15) "Nonresident CDL" means a commercial driver license issued by a state to an individual who resides in a foreign jurisdiction.

(16) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

(17) "Port-of-entry agent" has the same meaning as provided in Section 72-1-102.

(18) "Serious traffic violation" means a conviction of any of the following:

(a) speeding 15 or more miles per hour above the posted speed limit;

(b) reckless driving as defined by state or local law;

(c) improper or erratic traffic lane changes;

(d) following the vehicle ahead too closely;

(e) any other motor vehicle traffic law which arises in connection with a fatal traffic accident;

(f) operating a commercial motor vehicle without a CDL or a CDIP;

(g) operating a commercial motor vehicle without the proper class of CDL or CDL endorsement for the type of vehicle group being operated or for the passengers or cargo being transported; ~~or~~

(h) operating a commercial motor vehicle without a CDL or CDIP license certificate in the driver's possession in violation of Section 53-3-404~~[-]~~; or

(i) using a handheld wireless communication device as defined in Section 41-6a-1716 while operating a commercial motor vehicle.

(19) "State" means a state of the United States, the District of Columbia, any province or territory of Canada, or Mexico.

(20) "United States" means the 50 states and the District of Columbia.

Section 4. Section **53-3-407** is amended to read:

**53-3-407. Qualifications for commercial driver license -- Fee -- Third parties may administer skills test.**

(1) (a) As used in this section, "CDL driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation that:

(i) educates and trains persons, either practically or theoretically, or both, to drive commercial motor vehicles; and

(ii) prepares an applicant for an examination under Subsection (2)(a)(ii) or (2)(b)(i)(B).

(b) A CDL driver training school may charge a consideration or tuition for the services provided under Subsection (1)(a).

(2) (a) Except as provided in Subsection (2)(b) and (c), a CDL may be issued only to a person who:

(i) is a resident of this state;

(ii) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R.~~[-]~~ Part 383, Subparts G and H; and

(iii) has complied with all requirements of 49 C.F.R.~~[-]~~ Part 383 and other applicable state laws and federal regulations.

(b) (i) A temporary CDL may be issued to a person who:

(A) is enrolled in a CDL driver training school located in Utah;

(B) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383, Subparts G and H; and

(C) has complied with all requirements of 49 C.F.R. Part 383, Subparts G and H.

(ii) A temporary CDL issued under this Subsection (2)(b):

(A) is valid for 60 days; and

(B) may not be renewed or extended.

(iii) Except as provided in this section and Subsections 53-3-204(1)(a)(v), 53-3-205(8)(a)(i)(E) and (8)(b), and 53-3-410(1)(c), the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a temporary CDL issued under this Subsection (2)(b) in the same way as a commercial driver license issued under this part.

(c) The department shall waive the skills test specified in this section for a commercial driver license applicant who, subject to the limitations and requirements of 49 C.F.R. ~~[Part]~~ Sec. 383.77, meets all certifications required for a waiver under 49 C.F.R. ~~[Part]~~ Sec. 383.77 and certifies that the applicant:

(i) is a member of the active or reserve components of any branch or unit of the armed forces or a veteran who received an honorable discharge from any branch or unit of the active or reserve components of the armed forces;

(ii) is or was regularly employed in a position in the armed forces requiring operation of a commercial motor vehicle; and

(iii) has legally operated, while on active duty for at least two years immediately preceding application for a commercial driver license, a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate.

(d) An applicant who requests a waiver under Subsection (2)(c) shall present ~~[their DA 348, Equipment Operator's Qualification Record, AF 2293, US Air Force Motor Vehicle Operator Identification Card, or equivalent document from another branch of the United States Armed Forces,]~~ a completed application for a military skills test waiver at the time of the request.

(3) Tests required under this section shall be prescribed and administered by the division.

(4) The division shall authorize a person, an agency of this ~~[or another]~~ state, an employer, a private driver training facility or other private institution, or a department, agency, or entity of local government to administer the skills test required under this section if:

(a) the test is the same test as prescribed by the division, and is administered in the same manner; and

(b) the party authorized under this section to administer the test has entered into an agreement with the state that complies with the requirements of 49 C.F.R.~~[, Part]~~ Sec. 383.75.

(5) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(6) A person authorized under this section to administer the skills test is not criminally or civilly liable for the administration of the test unless he administers the test in a grossly negligent manner.

(7) The division may waive the skills test required under this section if it determines that the applicant meets the requirements of 49 C.F.R.~~[, Part]~~ Sec. 383.77.

Section 5. Section **53-3-407.1** is enacted to read:

**53-3-407.1. Commercial driver license third party tester or third party examiner license -- Fingerprint background check required.**

(1) A commercial driver license third party tester or commercial driver license third party examiner shall be licensed by the division to be eligible to administer the commercial driver license skills tests.

(2) (a) An applicant for a commercial driver license third party tester or third party examiner license shall submit fingerprints in a form acceptable to the division at the time the license application is filed and shall consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(b) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each commercial driver license third party tester or third party examiner applicant through the national criminal history system or



498 any successor system.

499 (c) The Utah Bureau of Criminal Identification shall release to the division all  
500 information received in response to the division's request under this Subsection (2).

501 (d) A commercial driver license third party tester or third party examiner license may  
502 not be issued under this section until the criminal background check required under this  
503 Subsection (2) has been completed and reviewed by the division.

504 (e) In addition to any fees imposed under this chapter, the division shall:

505 (i) impose on individuals submitting fingerprints in accordance with this Subsection  
506 (2) the fees that the Bureau of Criminal Identification is authorized to collect for the services  
507 the Bureau of Criminal Identification provides under this section; and

508 (ii) remit the fees collected under this Subsection (2)(e) to the Bureau of Criminal  
509 Identification.

510 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
511 division shall make rules establishing:

512 (a) minimum standards for a commercial driver license third party tester or third party  
513 examiner license;

514 (b) procedures for an applicant to apply for a commercial driver license third party  
515 tester or third party examiner license;

516 (c) minimum standards for the commercial driver license skills test; and

517 (d) procedures to enable a licensed commercial driver license third party tester or  
518 commercial driver license third party examiner to administer or process a commercial driver  
519 license skills test for an applicant to receive a commercial driver license.

520 Section 6. Section **53-3-410.1** is amended to read:

521 **53-3-410.1. Medical certification requirements.**

522 (1) ~~(a)~~ A person whose medical certification status is:

523 (a) "non-excepted interstate" under Subsection 53-3-402(13)(a) is required to provide  
524 the division a medical self certification and an updated medical examiner's certificate under 49  
525 C.F.R. Sec. 391.45 upon request by the division[-];

526 (b) "excepted interstate" under Subsection 53-3-402(13)(b) is required to provide to the  
527 division a medical self certification upon request by the division;

528 (c) "non-excepted intrastate" under Subsection 53-3-402(13)(c) is required to, upon

529 request by the division:

530 (i) provide to the division a medical self certification; and

531 (ii) comply with the requirements of Section 53-3-303.5; or

532 (d) "excepted intrastate" under Subsection 53-3-402(13)(b) is required to, upon request

533 by the division:

534 (i) provide to the division a medical self certification; and

535 (ii) (A) provide to the division an updated medical examiner's certificate under 49

536 C.F.R. Sec. 391.45; or

537 (B) comply with the requirements of Section 53-3-303.5.

538 ~~[(b)]~~ (2) A request by the division for a person to ~~[provide an updated medical~~

539 ~~examiner's certificate]~~ comply with Subsection (1) shall correspond with the expiration of the

540 previously submitted medical examiner's certificate.

541 ~~[(c)]~~ (3) If a person fails to ~~[provide an updated medical examiner's certificate under~~

542 ~~Subsection (1)(a)]~~ comply with a request under this section, the person shall be required to

543 downgrade the person's CDL to a class D license.

544 ~~[(2)]~~ (4) Failure to comply with the requirement of ~~[Subsection (1)(c)]~~ this section shall

545 result in the denial of the license under ~~[Subsection]~~ Section 53-3-221~~[(14)]~~.

546 Section 7. Section **53-3-412** is amended to read:

547 **53-3-412. CDL classifications, endorsements, and restrictions.**

548 (1) A CDL may be granted with the following classifications, endorsements, and

549 restrictions:

550 ~~[(1)]~~ (a) Classifications:

551 ~~[(a)]~~ (i) Class A: any combination of vehicles with a GVWR of 26,001 pounds or  
552 more, if the GVWR of the one or more vehicles being towed is in excess of 10,000 pounds;

553 ~~[(b)]~~ (ii) Class B: any single motor vehicle with a GVWR of 26,001 pounds or more,  
554 including that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less;

555 and

556 ~~[(c)]~~ (iii) Class C: any single motor vehicle with a GVWR of less than 26,001 pounds  
557 or that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less when the  
558 vehicle is designed ~~[or used]~~:

559 ~~[(i)]~~ (A) to ~~[transport more than 15]~~ carry 16 or more passengers, including the driver;

560           ~~[(iii)]~~ (B) as a school bus, and weighing less than 26,001 pounds GVWR; or  
561           ~~[(iii)]~~ (C) to transport hazardous materials that requires the vehicle to be placarded  
562 under 49 C.F.R.[;] Part 172, Subpart F.

563           ~~[(2)]~~ (b) Endorsements:

564           ~~[(a)]~~ (i) "H" authorizes the driver to drive a commercial motor vehicle transporting  
565 hazardous materials as defined in 42 C.F.R. Sec. 383.5.

566           ~~[(b)]~~ (ii) "N" authorizes the driver to drive a tank vehicle.

567           ~~[(c)]~~ (iii) "P" authorizes the driver to drive a motor vehicle ~~[carrying more than 15]~~  
568 designed to carry 16 or more passengers including the driver.

569           ~~[(d)]~~ (iv) "S" authorizes the driver ~~[to drive a school bus or a motor vehicle designed to~~  
570 ~~carry more than 15 passengers including the driver]~~ to transport pre-primary, primary, or  
571 secondary school students from home to school, school to home, or to and from  
572 school-sponsored events.

573           ~~[(e)]~~ (v) "T" authorizes the driver to drive a commercial motor vehicle with a double or  
574 triple trailer.

575           ~~[(f)]~~ (vi) "X" authorizes the driver to drive a tank vehicle and transport hazardous  
576 materials.

577           ~~[(3)]~~ (c) Restrictions:

578           (i) "E" restricts the driver from driving a commercial motor vehicle with a manual  
579 transmission.

580           ~~[(a)]~~ (ii) "K" restricts the driver to driving intrastate only any commercial motor  
581 vehicle as defined by ~~[Title]~~ 49[;] C.F.R.[;] Parts 383 and 390.

582           ~~[(b)]~~ (iii) "L" restricts the driver to driving a commercial motor vehicle not equipped  
583 with air brakes.

584           ~~[(c)]~~ (iv) "J" provides for other CDL restrictions.

585           ~~[(d)]~~ (v) "M" restricts a driver from transporting passengers using a class A bus.

586           ~~[(e)]~~ (vi) "N" restricts a driver from transporting passengers using a class A or class B  
587 bus.

588           (vii) "O" restricts a driver from driving a commercial motor vehicle equipped with a  
589 tractor trailer.

590           ~~[(f)-(i)]~~ (viii) (A) "V" indicates that the driver has been issued a variance by the Federal

591 Motor Carrier Safety Administration in reference to the driver's medical certification status.

592 ~~[(ii)]~~ (B) A driver with a "V" restriction shall have the letter outlining the specifications  
593 for the variance in the driver's possession along with the driver's commercial driver license  
594 when operating a commercial motor vehicle.

595 (ix) "Z" restricts a driver from driving a commercial motor vehicle with non-fully  
596 equipped air brakes.

597 (2) A commercial driver instruction permit may be granted with the following  
598 classifications, endorsements, and restrictions:

599 (a) Classifications:

600 (i) Class A: any combination of vehicles with a GVWR of 26,001 pounds or more, if  
601 the GVWR of the one or more vehicles being towed is in excess of 10,000 pounds;

602 (ii) Class B: any single motor vehicle with a GVWR of 26,001 pounds or more,  
603 including that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less;  
604 and

605 (iii) Class C: any single motor vehicle with a GVWR of less than 26,001 pounds or  
606 that motor vehicle when towing a vehicle with a GVWR of 10,000 pounds or less when the  
607 vehicle is designed:

608 (A) to carry 16 or more passengers, including the driver;

609 (B) as a school bus, and weighing less than 26,001 pounds GVWR; or

610 (C) to transport hazardous materials that requires the vehicle to be placarded under 49  
611 C.F.R. Part 172, Subpart F.

612 (b) Endorsements:

613 (i) "N" authorizes the driver to drive a tank vehicle. An "N" endorsement may only be  
614 issued with an "X" restriction.

615 (ii) "P" authorizes the driver to drive a motor vehicle designed to carry 16 or more  
616 passengers including the driver. A "P" endorsement may only be issued with a "P" restriction.

617 (iii) "S" authorizes the driver to transport pre-primary, primary, or secondary school  
618 students from home to school, school to home, or to and from school-sponsored events. An  
619 "S" endorsement may only be issued with a "P" restriction.

620 (c) Restrictions:

621 (i) "K" restricts the driver to driving intrastate only any commercial motor vehicle as

622 defined by 49 C.F.R. Parts 383 and 390.

623 (ii) "L" restricts the driver to driving a commercial motor vehicle not equipped with air  
624 brakes.

625 (iii) "M" restricts a driver from transporting passengers using a class A bus.

626 (iv) "N" restricts a driver from transporting passengers using a class A or class B bus.

627 (v) "P" restricts a driver from having one or more passengers in the vehicle while  
628 driving a commercial motor vehicle bus unless the passenger is:

629 (A) a federal or state auditor or inspector;

630 (B) a test examiner;

631 (C) another trainee; or

632 (D) the CDL holder accompanying the CDIP holder as required in 49 C.F.R. Sec.  
633 383.25.

634 (vi) (A) "V" indicates that the driver has been issued a variance by the Federal Motor  
635 Carrier Safety Administration in reference to the driver's medical certification status.

636 (B) A driver with a "V" restriction shall have the letter outlining the specifications for  
637 the variance in the driver's possession along with the driver's commercial driver license when  
638 operating a commercial motor vehicle.

639 (vii) "X" restricts a driver from having cargo in a commercial motor vehicle tank  
640 vehicle.

641 Section 8. Section **53-3-414** is amended to read:

642 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**  
643 **Procedure.**

644 (1) (a) A person who holds or is required to hold a CDL is disqualified from driving a  
645 commercial motor vehicle for a period of not less than one year effective seven days from the  
646 date of notice to the driver if convicted of a first offense of:

647 (i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled  
648 substance, or more than one of these;

649 (ii) driving a commercial motor vehicle while the concentration of alcohol in the  
650 person's blood, breath, or urine is .04 grams or more;

651 (iii) leaving the scene of an accident involving a motor vehicle the person was driving;

652 (iv) failing to provide reasonable assistance or identification when involved in an

653 accident resulting in:

654 (A) death in accordance with Section 41-6a-401.5; or

655 (B) personal injury in accordance with Section 41-6a-401.3;

656 (v) using a motor vehicle in the commission of a felony;

657 (vi) refusal to submit to a test to determine the concentration of alcohol in the person's

658 blood, breath, or urine;

659 (vii) driving a commercial motor vehicle while the person's commercial driver license

660 is disqualified in accordance with the provisions of this section for violating an offense

661 described in this section; or

662 (viii) operating a commercial motor vehicle in a negligent manner causing the death of

663 another including the offenses of automobile homicide under Section 76-5-207, manslaughter

664 under Section 76-5-205, or negligent homicide under Section 76-5-206.

665 (b) The division shall subtract from any disqualification period under Subsection

666 (1)(a)(i) the number of days for which a license was previously disqualified under Subsection

667 ~~[53-3-414(1)(b)]~~ (1)(a)(ii) or (14) if the previous disqualification was based on the same

668 occurrence upon which the record of conviction is based.

669 (2) If any of the violations under Subsection (1) occur while the driver is transporting a

670 hazardous material required to be placarded, the driver is disqualified for not less than three

671 years.

672 (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds

673 or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if

674 convicted of or administrative action is taken for two or more of any of the offenses under

675 Subsection (1), (5), or (14) arising from two or more separate incidents.

676 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

677 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under

678 this section may apply to the division for reinstatement of the driver's CDL if the driver:

679 (i) has both voluntarily enrolled in and successfully completed an appropriate

680 rehabilitation program that:

681 (A) meets the standards of the division; and

682 (B) complies with 49 C.F.R. ~~[Part]~~ Sec. 383.51;

683 (ii) has served a minimum disqualification period of 10 years; and

(iii) has fully met the standards for reinstatement of commercial motor vehicle driving privileges established by rule of the division.

(b) If a reinstated driver is subsequently convicted of another disqualifying offense under this section, the driver is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification.

(5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance and is ineligible to apply for a reduction of the lifetime disqualification under Subsection (4).

(6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) involve the use or operation of a commercial motor vehicle.

(c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (6), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(7) (a) A driver of a commercial motor vehicle who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(i) 180 days if the driver is convicted of a first violation;

(ii) two years if, during any 10 year period, the driver is convicted of two violations of

715 out-of-service orders in separate incidents;

716 (iii) three years but not more than five years if, during any 10 year period, the driver is  
717 convicted of three or more violations of out-of-service orders in separate incidents;

718 (iv) 180 days but not more than two years if the driver is convicted of a first violation  
719 of an out-of-service order while transporting hazardous materials required to be placarded or  
720 while operating a motor vehicle designed to transport 16 or more passengers, including the  
721 driver; or

722 (v) three years but not more than five years if, during any 10 year period, the driver is  
723 convicted of two or more violations, in separate incidents, of an out-of-service order while  
724 transporting hazardous materials required to be placarded or while operating a motor vehicle  
725 designed to transport 16 or more passengers, including the driver.

726 (b) A driver of a commercial motor vehicle who is convicted of a first violation of an  
727 out-of-service order is subject to a civil penalty of not less than \$2,500.

728 (c) A driver of a commercial motor vehicle who is convicted of a second or subsequent  
729 violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.

730 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is  
731 disqualified for not less than 60 days if the division determines, in its check of the driver's  
732 driver license status, application, and record prior to issuing a CDL or at any time after the  
733 CDL is issued, that the driver has falsified information required to apply for a CDL in this  
734 state.

735 (9) A driver of a commercial motor vehicle who is convicted of violating a  
736 railroad-highway grade crossing provision under Section 41-6a-1205, while driving a  
737 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period  
738 not less than:

739 (a) 60 days if the driver is convicted of a first violation;

740 (b) 120 days if, during any three-year period, the driver is convicted of a second  
741 violation in separate incidents; or

742 (c) one year if, during any three-year period, the driver is convicted of three or more  
743 violations in separate incidents.

744 (10) (a) The division shall update its records and notify the CDLIS within 10 days of  
745 suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.



(b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the division shall notify the licensing authority of the issuing state or other jurisdiction and the CDLIS within 10 days after the action is taken.

(c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this state, the division shall notify the CDLIS within 10 days after the action is taken.

(11) (a) The division may immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that the:

(i) CDL was issued by the division through error or fraud;

(ii) applicant provided incorrect or incomplete information to the division;

(iii) applicant cheated on any part of a CDL examination;

(iv) driver no longer meets the fitness standards required to obtain a CDL; or

(v) driver poses an imminent hazard.

(b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section 53-3-221.

(c) If a hearing is held under Section 53-3-221, the division shall then rescind the suspension order or cancel the CDL.

(12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving privilege from at least one of the violations.

(c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period

under this Subsection (12), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no contest to a violation of a disqualifying offense described in this section which plea is held in abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend, cancel, or revoke the person's CDL for the period required under this section for a conviction of that disqualifying offense, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) The division shall report the plea in abeyance to the CDLIS within 10 days of taking the action under Subsection (13)(a).

(c) A plea which is held in abeyance may not be removed from a person's driving record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

- (i) reduced or dismissed in accordance with the plea in abeyance agreement; or
- (ii) expunged under Section 77-40-105.

(14) The division shall disqualify the CDL of a driver for an arrest of a violation of Section 41-6a-502 when administrative action is taken against the operator's driving privilege pursuant to Section 53-3-223 for a period of:

- (a) one year; or
- (b) three years if the violation occurred while transporting hazardous materials.

(15) The division may concurrently impose any disqualification periods that arise under this section while a driver is disqualified by the Secretary of the United States Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.